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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In Re ACACIA MEDIA TECHNOLOGIES CORPORATION	)	Case No. C-05-01114 JW **DECLARATION OF DAVID S. BENYACAR IN SUPPORT OF ROUND 3 DEFENDANTS' CLAIM CONSTRUCTION MEMORANDUM REGARDING THE ASSERTED '863 CLAIMS AND THE PREVIOUSLY-CONSTRUED TERMS**

Kaye Scholer LLP

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I, David S. Benyacar, hereby declare as follows:

1. I am a member of the law firm Kaye Scholer, LLP, counsel of record for defendant Time Warner Cable Inc. I make this declaration from my own personal knowledge, and if called as a witness, I could and would testify competently hereto.

2. On August 11, 2006, the Round 3 defendants will be filing their "Round 3 Defendants' Claim Construction Memorandum Regarding the Asserted '863 Claims and the Previously-Construed Terms" in this courthouse.

3. The following exhibits, attached hereto, are true and correct copies of the original documents (except that previous e-filing stamps have been redacted):

Exh. A: Satellite Defendants' Memorandum Regarding the Definitions of Terms in Claims 41-45 of the '992 Patent (filed May 8, 2006); pages 21-23.

Exh. B: Round 3 Defendants' Claim Construction Brief (Part I), filed on May 8, 2006; pages 5-7, 10, 11, 55-58.

Exh. C: Parties' Stipulated Definitions for Claim Terms From the '863 and '720 Patents (filed on July 21, 2006)

Exh. D : Court's December 12, 2005 Markman Order, p. 17.

Exh. E: Computer Dictionary, 2d Ed., Microsoft Press (1994); pp. 12, 48, 69, 113, 330, 336.

Exh. F: Declaration of Peter Alexander in Support of Acacia's Opposition to Motion for Summary Judgment, (signed October 20, 2004);¶¶ 33, 34.

Exh. G: Newton's Telecom Dictionary, 6th Ed., Telecom Library, Inc. (1993), pp. 135, 478.

Exh. H: Declaration of S. Merrill Weiss in Support of Acacia's Opposition to Motion for Summary Judgment (signed October 20, 2004); ¶ 83.

Exh. I: 5/12/94 Amendment ('863 Patent Prosecution History)

Exh. J: 12/30/94 Office Action ('863 patent prosecution history)

Exh. K: Spohn, Darren, L., Data Network Design, McGraw Hill, Inc. (1993)

Exh. L: Reibman, *Andrew, Reliability Analysis of a Computer System for a Data Collection Application*, IEEE (1990).

Exh. M: Parties' Joint Claim Chart, p. 4., filed July 21, 2006.

Exh. N: June 14, 2006 Hearing Transcript, pp.39, 40, 57-61, 95.

Exh. O: IBM Dictionary of Computing, McGraw Hill, Inc., p. 183.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 11th day of August, 2006, at New York, New York.

/s/ David. S. Benyacar

David S. Benyacar

KAYE SCHOLER LLP